

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

**JAMES W. GAYLOR, JR.,**

**Plaintiff,**

VS.

**COMMISSIONER OF THE  
GEORGIA DEPARTMENT OF  
CORRECTIONS, *et al.***

## Defendants.

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**NO. 4:21-CV-00001-CDL-MSH**

## ORDER

*Pro se* Plaintiff James W. Gaylor, Jr. wrote a letter to the Clerk of Court in which he stated that “he wanted to initiate a legal action against the Commissioner of the GA Dept. of Corrections and whomever else... for their knowingly violating federal law...” ECF No. 1 at 1. Plaintiff’s letter was referred to the United States Magistrate Judge. ECF No. 2. Subsequently, Plaintiff’s claims within the letter were construed as a complaint under 42 U.S.C § 1983. ECF No. 3. Plaintiff was ordered to recast his complaint and to pay the filing fee or file a motion to proceed *in forma pauperis*. *Id.*

Plaintiff responded with a “motion to stay proceeding” in which he stated that he would like the case stayed indefinitely while he sought legal assistance. ECF No. 4 at 1. Plaintiff further averred that he “never intended for his original letter to the Clerk of the Honorable Court to be construed as the beginning of his action but a request for assistance...” *Id.* Plaintiff’s motion for an indefinite stay was denied. *See* ECF No. 5.

Plaintiff has now filed a “motion to dismiss” again stating that he “did not intend to initiate a legal action through the writing of a letter.” ECF No. 6 at 1. Plaintiff states that he intends to “seek legal assistance to present his cause in another forum...” *Id.* at 2.

Rule 41 of the Federal Rules of Civil Procedure provides that a “...plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion to summary judgment, or (ii) a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A). Because no defendant has been served in the case, leave of court is not required to dismiss this action, and Plaintiff is automatically entitled to voluntary dismissal. Accordingly, Plaintiff’s motion to dismiss (ECF No. 6) is **GRANTED**, and this action is **DISMISSED without prejudice**.

**SO ORDERED**, this 6th day of April, 2021.

S/Clay D. Land  
CLAY D. LAND, JUDGE  
UNITED STATES DISTRICT COURT